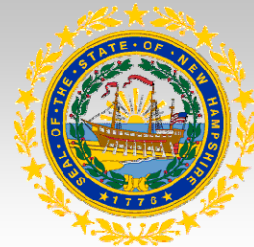


BANKING DEPARTMENT



Peter C. Hildreth, Commissioner
Robert A. Fleury, Deputy Commissioner

53 Regional Drive, Suite 200, Concord, NH 03301
Phone 603-271-3561 * www.nh.gov/banking

Issue 09-1

No Ordinary Time

Banking Commissioner Peter C. Hildreth

By any measure, these are interesting times for the financial services industry. We are deluged every day by the news media giving us stories of woe, telling us about increasing foreclosures, giving us "breaking news" about job losses, and reporting new lows in the stock market.

But, there is good news here in New Hampshire. Our state chartered banks and credit unions have money to lend. They remain safe and sound due, in part, to good banking practices. And, New Hampshire consistently does better than the national average in unemployment, in foreclosures and not one bank has been taken over by the FDIC. While there has been a large increase in foreclosures, we have been through worse. Recent foreclosure levels are significantly below the foreclosure crisis of the early 1990s. Yes, we are going through tough times. But, we will come through these bad times as we came through other rough periods.

Here at the Banking Department, we are trying to do what we can to help people with mortgage problems. As of February 20th, we have fielded 329 calls on our Mortgage Foreclosure Hotline. We have been able to assist borrowers dealing with their mortgage servicer or lender to modify their loans. We are

available during regular business hours and will return calls received outside of those hours. The Hotline number is 1-800-437-5991.

So, as we go further into 2009, I hope you will be part of the solution to our economic problems. As a country, we can pull ourselves out of this situation as we have in the past. It won't happen overnight but it will happen. We just need to work together to solve the problems. If we do, 2009 will be the year of the economic turnaround!

Please Note

The New Hampshire Banking Department's address has changed. Numerous mailings continue to be addressed to our prior location. Please be sure to update your records with the following, new address:

New Hampshire Banking Department
53 Regional Drive, Suite 200
Concord, NH 03301

Also, please contact us if your Emergency Contact Information has changed. An easy to use "fillable" pdf form is located on our web site at: <http://www.nh.gov/banking>. If you need assistance please call the Department at 603-271-3561.

Escrow Rate

The escrow rate for the period February 1, 2009 through July 31, 2009 is 0.0%.

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BANKING DIVISION NEWS

Fraudulent Use of Names of Financial Service Institutions

By Ingrid White, Hearings Examiner

The Banking Department has begun to serve cease and desist orders in connection with SB 315, which was passed last session to prevent the fraudulent use of the names of financial institutions.

If your institution receives copies of solicitations or advertisements that violate the terms of SB 315, please forward them to the Banking Department as soon as possible, along with the envelopes they came in and information about the date on which the solicitation was received.

Under SB 315 (RSA 384:67) a solicitation cannot contain the following without prior written permission from the financial institution: the financial institution's name, trade name, service or trade mark, abbreviated name, loan numbers or other specific loan information relating to a specifically – identified consumer. There are certain exceptions, however. Some loan information can be included in a solicitation if certain disclosures are made.

Also, solicitations can include a financial institution's name, trade or service mark if it is limited solely to comparing the attributes of products or services offered by that financial institution to the entity sending the solicitation. However, the financial institution's name, trade or service mark cannot be visible on the outside of the envelope, on the front of a postcard, or in the subject line of an electronic transmission.

Each solicitation sent in violation of this statute can represent up to a \$2,500 fine to the sender per RSA 384:12-a, IV and V.

Law Books

By Todd Wells, Chief Bank Examiner

The 2008–2009 Edition of the New Hampshire Banks and Banking Laws Annotated has been published. A limited number of copies is now available at a cost of \$44. If you wish to purchase a copy, please contact the Department for an order form. These statutes remain available in electronic form on the “Laws and Rules” page of the Department’s website: <http://www.nh.gov/banking>.

CONSUMER CREDIT DIVISION NEWS

Mortgage Originator Licensing Coming

By Mary Jurta, Director of Consumer Credit

During the last New Hampshire legislative session House Bill 1286, which requires the licensing of all mortgage loan originators, was passed and signed into law by the Governor. As of April 1, 2009 (just 1 month from now) all individuals who originate mortgage loans on New Hampshire residential property will need to obtain a license from the Banking Department to conduct that activity.

The license application is required to be filed through the new National Mortgage Licensing System (NMLS). Mortgage loan originators (MLOs) can only originate mortgage loans while they are employed by or retained by a licensed mortgage banker or broker company. The originator's license lapses whenever the individual is not "sponsored" by a licensed company. "Sponsor" is a word used in the NMLS to reflect the relationship between the mortgage company and each individual mortgage originator. If an individual wants to originate mortgage loans on his or her own and not on behalf of a licensed mortgage company, he or she needs to be licensed as a mortgage broker or banker in the State of New Hampshire.

It is important for all mortgage companies who have not transitioned their records onto the NMLS to do so as soon as possible. Information can be found on our website. Originators will not be able to file an application for licensure until the sponsoring company's record and license are reflected on the system. Applications for loan originator licenses will be accepted by NMLS beginning in

February 2009 so all companies must be transitioned onto the system by that time.

Special note for sole proprietorships: In addition to their mortgage banker or broker license, sole proprietor individuals will also have to obtain a MLO license through the NMLS.

Upcoming Requirements for Mortgage Loan Originators

Last summer the United States Congress passed, and the President signed into law, Public Law 110-289, The Housing and Economic Recovery Act of 2008. Title V of that bill is known as the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008" or as "The S.A.F.E. Mortgage Licensing Act." The law became effective on July 30, 2008 and requires all mortgage loan originators in the United States to be licensed or registered through the National Mortgage Licensing System (NMLS). Banks and Credit Unions are required to register their originators; further information regarding this process should be forthcoming from FFIEC. Every mortgage broker and lender must license their originators in each state where they originate mortgages. Severe penalties result from failure to obtain a license. The Department of Housing and Urban Development (HUD) oversees the implementation of S.A.F.E. and can require the licensure of originators in a state that does not comply with S.A.F.E. within a short period of time.

CONSUMER CREDIT DIVISION NEWS

In order to comply with S.A.F.E. the Banking Department is requesting legislation to implement S.A.F.E.'s requirements. S.A.F.E. requires, among other things and prior to licensure, every mortgage originator must be covered by a surety bond (it can be the company's bond) to take a test, have pre-license education, be fingerprinted for a criminal history records report, and to have a credit check. In order to be licensed S.A.F.E. requires that each mortgage loan originator meet the following standards:

- Never had a loan originator license revoked; and
- Has had no felonies in the past seven years; and
- Never had a felony involving fraud, dishonesty, breach of trust or money laundering; and
- Demonstrates financial responsibility and general fitness; and
- Scores 75% or better on a national test created by NMLS&R. The test will include:
 - Ethics
 - Federal law and regulation
 - State law and regulation
 - Federal and state law and regulation pertaining to fraud, consumer protection, nontraditional mortgages, and fair lending; and
- Takes eight hours of continuing education annually. The education must include:
 - 3 hours of federal law and regulations
 - 3 hours of ethics, which must include fraud, consumer protection, and fair lending
 - 2 hours of standards on non-traditional mortgage lending; and
- Maintains licensure through NMLS.

The fingerprinting, initial and continuing education, credit check and testing will be conducted by and reported through the NMLS.

While originators need to be licensed in New Hampshire as of April 1, 2009, they may become licensed without meeting the education, testing and fingerprinting requirements. However, the prohibitions on criminal convictions will apply. As of July 31, 2009, any individual newly applying to be licensed as an originator will have to meet all the requirements of S.A.F.E. In other words, they will have to undergo the pre-license testing, education, fingerprinting and credit report processes in order to file an application.

Originators licensed between April 1, 2009 and July 31, 2009 will have until December 1, 2009 to complete the requirements of S.A.F.E. In other words, sometime between July 31, 2009 and December 1, 2009 such originators will have to, through the NMLS, take the pre-license education courses, pass the pre-license test, meet the pre-license and the continuing education requirements and have a credit report pulled. Only then will they be allowed to renew their mortgage loan originator's license for the 2010 calendar year.

More information will be forthcoming from the Department. In February 2009 originator applications may be filed through the NMLS. If the application is approved, it will become effective on April 1, 2009 (prior to that date no license is required). It is important to make sure to leave enough time after filing the application for the Department to review the application and get back to you to request further or clarifying information if needed.

The full text of S.A.F.E. and details on all the requirements are available at the website of the Conference of State Bank Supervisors: csbs.org.

In Memoriam

Our work grew exponentially harder several weeks ago with the unexpected passing of one of our Senior Examiners, Bob Duclos. Bob was an outstanding Consumer Credit Examiner and we will miss his big smile, passion for his work, and dedication to the Department.

Prior to his career at the Banking Department, Bob worked for the Rumford Press, where he served as president of the union web room. He was a member of the Concord-Epsom Elks, the Concord Eagles, and the Sons of the American Legion - Contoocook.



W. Robert (Bob) Duclos

Personnel Changes

Congratulations Linda Austin!

Linda has retired after 19 years of State service, many as a dedicated Licensing Specialist for the Consumer Credit Division.

We are pleased to welcome a new General Counsel and a new Hearings Examiner to the Department. Ms. Celia Leonard will lead our legal division as General Counsel and Ms. Ingrid White has joined our legal division as a Hearings Examiner for the Banking Division. Ms. Maryam Torben-Desfosses has become the Consumer Credit Hearings Examiner.



Deputy Bank Commissioner Robert Fleury,
Banking Hearings Officer Ingrid White,
and General Counsel Celia Leonard.